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This Order was filed under
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2026 IL App (4th) 251104-U

NO. 4-25-1104

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 29, 2026

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McDonough County
TIMOTHY L. SMITH,	)	Nos. 24CF151
Defendant-Appellant.	)	
	)	Honorable
	)	Nigel D. Graham,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.

Presiding Justice Steigmann and Justice Lannerd concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding (1) the jury’s rejection of defendant’s insanity defense was not against the manifest weight of the evidence and (2) defendant had not established his claims of plain error and ineffective assistance of counsel with respect to the State’s closing argument.

¶ 2 Following a jury trial, defendant, Timothy L. Smith, was found guilty but mentally ill of first degree murder (720 ILCS 5/9-1(a)(1) (West 2022)) and sentenced to 50 years in prison. Defendant appeals, arguing (1) the jury’s rejection of his insanity defense is against the manifest weight of the evidence and (2) the State’s closing argument unduly prejudiced him where the prosecutor repeatedly expressed his opinion on the ultimate jury question—whether defendant was insane at the time of the killing—and relied on a doctor’s report referred to when impeaching the defense expert as substantive evidence of defendant’s sanity. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 The State charged defendant with two counts of first degree murder (*id.* §§ 9-1(a)(1), (a)(2)) for the unlawful killing of Darrell Hocker, his cellmate at the McDonough County jail (jail), on November 8, 2023. A jury trial was held in June 2025, at which the defense asserted defendant was not criminally responsible for the killing because he was insane at the time it occurred. After its deliberations, the jury was deadlocked. The jury indicated 11 jurors believed defendant was guilty but mentally ill and 1 juror believed defendant was not guilty by reason of insanity. The trial court declared a mistrial.

¶ 5 In August 2025, the trial court conducted a second jury trial, which is the subject of this appeal. Again, the defense asserted defendant was not criminally responsible for the killing because he was insane at the time it occurred. As part of its case, the State introduced a recording from the jail on November 8, 2023. The recording contains video but no audio. Several witnesses referenced the video to illustrate their testimonies.

¶ 6 Sheriff Nicholas Petitgout testified to the jail's layout and camera system. The jail had several pods connected by narrow hallways. Each pod contained three cells, with two bunks per cell, and a small day room. The day room was furnished with two tables, a television, and a shower. A camera is mounted at one end of the day room; there is no view inside the cells. The lights in the pod are turned off at 11 p.m., and the televisions are unplugged at 1 a.m.

¶ 7 In the pod at issue, Defendant and Hocker shared one of the cells. Defendant had been at the jail for a little over a month as of November 8, and he and Hocker had shared a cell for about one to two weeks. The other inmates in the pod were Derek Payne and David Bennett. Payne was housed in the middle cell, and Bennett was housed in the cell closest to the pod door.

¶ 8 Dominique Cerda, a guard on duty at the jail on November 8, patrolled the hallways

every 20 minutes. Cerda unplugged the television in defendant's pod just after 1 a.m. The video shows shadows moving in defendant's cell after the television was turned off. A few minutes later, when Cerda heard shouting and banging, she walked down the hallway to find the source of the noise. Cerda entered defendant's pod and saw defendant in his cell, standing over Hocker with his hands up. Cerda called for help and removed defendant from his cell. The video shows defendant walking out of his cell with his hands up. He did not make any aggressive movements toward Cerda or the other guard on duty.

¶ 9 Payne and Bennett testified they were awakened by sounds of stomping and pounding on the floor and Hocker screaming for help and gasping for air. They both shouted and banged on the cell doors to get help. Bennett could see inside the cell of defendant and Hocker through a reflection on the window opposite the cell. He saw defendant stomping his feet. Payne and Bennett watched as defendant was led out of the cell by Cerda. Both men observed defendant was smiling or smirking. Payne recalled prior instances where defendant and Hocker were "bicker[ing] back and forth, like playing cards and stuff in their cell and stuff like that, but nothing major." Bennett also recalled prior instances where defendant and Hocker would argue, "but *** it wouldn't be too much aggressive arguments."

¶ 10 Michael Phelps, a paramedic, testified he responded to the jail for a report of an injured inmate. After being directed to a cell, Phelps found an unresponsive Hocker and a large amount of blood on the floor. Phelps transferred Hocker to the hospital, where he was later pronounced dead.

¶ 11 Curt Dykstra, a crime scene investigator, testified he arrived at the jail around 2 a.m. After learning Hocker had died, Dykstra went to the hospital to take photographs of his body. Dykstra then returned to the jail, where he took photographs of defendant and the scene and

collected evidence. With respect to taking photographs of defendant and evidence from his person, Dykstra believed defendant understood what was being asked of him. Defendant did not make any verbal or physical threats. Various photographs taken by Dykstra were admitted into evidence.

¶ 12 Timothy Becket, a law enforcement investigator, interviewed defendant around 4:50 a.m. The interview was audio and video recorded. The recording shows Becket initially asking defendant if he was injured, to which defendant indicated he was not. Becket tells defendant he was there to talk about “what’s going on tonight.” Defendant then states he “had some trouble with a cellmate.” Becket reads defendant each of his *Miranda* rights (see *Miranda v. Arizona*, 384 U.S. 436 (1966)), and defendant confirms he understands each right. Defendant invokes his right to counsel, and the interview ends. Becket testified defendant made eye contact with him several times during the interview. Defendant did not make any verbal or physical threats.

¶ 13 Dr. Nathaniel Patterson, a forensic pathologist, performed an autopsy on Hocker’s body. Dr. Patterson observed numerous blunt force injuries. Dr. Patterson concluded Hocker died from blunt force injuries to the head and neck and crush injuries of the chest.

¶ 14 The defense, as part of its case, presented testimony from Tanisha and Greg Malone, defendant’s sister and brother-in-law. According to Tanisha, defendant started showing signs of severe mental illness in early 2020, after their adoptive father died. Defendant became paranoid, reclusive, and uncommunicative and engaged in “conspiracy thinking,” such as believing people were listening to and spying on him.

¶ 15 In February 2023, defendant was arrested for barricading his then wife and child in the house and threatening their dog. The Malones bailed defendant out of jail and agreed to let him live with them, provided he went to counseling and obtained employment.

¶ 16 At first, defendant complied with the Malones’ rules. That compliance deteriorated.

At times, defendant acted normal, and at other times, he would “zone out” and be unable to respond to conversation. He began saying things that were not true, like he was a millionaire, owned McDonald’s, owned the county, did not think chickens hatched from eggs, was in the mob, and owned a Christmas tree farm. He became increasingly paranoid and was suspicious of helicopters. In July 2023, defendant took a trip to Florida to visit his biological father. His father eventually kicked him out due to his behavior.

¶ 17 In the fall of 2023, defendant was not sleeping. He would pace in the driveway, muttering to himself. Defendant agreed to be admitted to a psychiatric hospital. On the morning Tanisha was going to drive him to the hospital, they were sitting in the car, and he said he wanted to take his dog with him. Tanisha told him he would not be allowed to bring the dog because it was not a service dog. Defendant then took a pen from the center console of the car, grabbed Tanisha by the hair, and stabbed her in the back, neck, and shoulder. Defendant threw Tanisha out of the car and drove away. The police were called, and defendant was arrested and incarcerated in October 2023.

¶ 18 After defendant’s incarceration, Tanisha occasionally spoke with him while he was in jail. That communication no longer existed at the time of her testimony. When she heard about the charges in this case, she did not think defendant could distinguish right from wrong.

¶ 19 The defense also presented testimony from James Hoyle, an attorney who had previously represented defendant when he was arrested in February 2023. Hoyle had concerns about defendant’s mental health. He observed defendant hallucinating when he met with him in early October 2023 to have him sign documents to allow Tanisha to manage his affairs. Defendant could not concentrate on the documents and was looking in the corner of the room, conversing with people who were not there.

¶ 20 And last, the defense presented testimony from Dr. Amy Louck Davis, a qualified expert in clinical psychology. Dr. Louck Davis examined defendant to determine if he met the legal definition of insanity at the time of the November 2023 killing. Her evaluation consisted of interviewing defendant in March 2025, reading doctor's reports and legal documents, and talking to defendant's family and jail staff.

¶ 21 Dr. Louck Davis's interview with defendant lasted approximately 30 minutes. He appeared disheveled, with shaggy long hair, and had an unkempt cell. Throughout the interview, he mumbled and was often incoherent. When he spoke, the things he said were not logical. For example, he said a power grid that went down in St. Louis affected his court documents.

¶ 22 Dr. Louck Davis testified she was "able to look at [defendant] over a little more than a two-year period of time beginning about nine months before the offense happened, so back in, like, February of 2023." She learned that, in February 2023, defendant became paranoid, controlling, aggressive, and withdrawn from his family. He believed Nazis were talking to him and the family dog was possessed.

¶ 23 Dr. Louck Davis testified she reviewed an October 2023 report written by a psychologist, "Dr. Eckert," concerning defendant's fitness to stand trial. According to Dr. Louck Davis, the report followed an evaluation which occurred two weeks prior to the killing and described defendant as "clearly having a thought disorder."

¶ 24 When asked if she reviewed information "around the time of the offense that [she] thought was relevant," Dr. Louck Davis testified:

"Around that day, it was reported a couple of things that he had been saying—or he said after the fact that on that day, his roommate was summoning demons was his statement. He described himself as feeling aggravated was the word

he used, and he was—he perceived threat. I don’t know if he made a statement about that or if it was somebody else’s statement that he had regarded—had regarded him, but he perceived threat.”

Dr. Louck Davis also indicated defendant had been described as smirking, which she noted “would be really inconsistent with how a person would be expected to display their emotions after a moment like that.”

¶ 25 Dr. Louck Davis testified she also reviewed a January 2024 report written by Dr. Eckert concerning defendant’s fitness to stand trial. According to Dr. Louck Davis, the report indicated defendant was paranoid, had poor impulse control, was not sleeping, and had inappropriate emotional reactions. He also was hearing voices, including the voice of a Nazi.

¶ 26 Dr. Louck Davis indicated defendant was transferred to a mental health center in April 2024. According to Dr. Louck Davis, the records from the center showed defendant was delusional and paranoid and heard voices. He was diagnosed with intermittent explosive disorder and antisocial personality disorder. After some time at the center, with a treatment plan, he no longer heard voices. He was returned to the jail in July 2024.

¶ 27 Dr. Louck Davis reviewed a document from a lawyer of defendant’s concerning defendant’s behavior in October 2024. According to Dr. Louck Davis, defendant was no longer hallucinating or hearing voices but continued to have paranoia and was depressed, irritable, and withdrawn.

¶ 28 At the close of her evaluation, Dr. Louck Davis diagnosed defendant with schizophrenia and opined the mental illness prevented him from being able to appreciate the criminality of his actions at the time of the killing. She explained the mental health diagnosis required, “for a period of a month,” a finding of two out of the following five factors:

(1) hallucinations, (2) delusions, (3) disorganized behavior, (4) disorganized speech, and (5) negative symptoms. She noted negative symptoms included lack of self-awareness, judgment, or concentration and poor hygiene. Dr. Louck Davis testified defendant exhibited all the factors around the time of the killing. Dr. Louck Davis also explained, to be diagnosed with schizophrenia, “there has to be continuous presence over at least six months of some of those symptoms going on.” She explained schizophrenia has three phases—prodromal (a gradual increase of symptoms), the active phase (where symptoms are prominent), and the residual phase (where symptoms recede). Dr. Louck Davis testified defendant’s symptoms were in the active phase around the time of the killing and became less active when he was transferred to the mental health center.

¶ 29 On cross-examination, Dr. Louck Davis admitted she did not have any specific information from March 2023 to early October 2023, when defendant was not incarcerated, showing he experienced delusions, hallucinations, and negative symptoms. She explained, despite the lack of that information, it would have been “consistent with the general course of his illness overall for those symptoms to have persist[ed].”

¶ 30 With respect to defendant’s actions and behavior on the day of the killing, Dr. Louck Davis admitted she did not review any interviews of defendant with law enforcement. She acknowledged it would have been relevant to observe defendant’s body language and his interactions with others in the hours immediately after the killing.

¶ 31 Dr. Louck Davis acknowledged, as to defendant’s statement about his roommate summoning demons, that statement came from Dr. Eckert’s January 2024 report. She noted she may have also read the statement in a police report.

¶ 32 Further, with respect to Dr. Eckert’s January 2024 report, Dr. Louck Davis acknowledged Dr. Eckert indicated defendant reported hearing Nazi voices only every 10 to 15

years.

¶ 33 The State examined Dr. Louck Davis about her decision not to include in the report she prepared for this case certain information and an opinion reported by a psychiatrist, Dr. Sudarshan Suneja, in June 2024 about defendant's time at the mental health center. The State read the information and opinion reported by Dr. Suneja and asked why Dr. Louck Davis did not include those in her report. The information Dr. Suneja disclosed was defendant, since being admitted to the center, had no psychotic behaviors or statements, had fair hygiene, went to the dining hall and other off-unit activities without problems, had no issues or need for restraint, was not administered psychotropic medication, and had mentioned to his therapist he wanted to stay at the center. The opinion Dr. Suneja rendered was defendant may act out or feign psychiatric symptoms in court to avoid jail. Dr. Louck Davis explained the information and opinion reported by Dr. Suneja were not included in her report because they related to a fitness evaluation he was conducting, which she indicated was not relevant to her insanity opinion, and was "the total of the information provided by Dr. Suneja despite [defendant] being there for months." She also noted any improvement in defendant's behaviors was due to him being in a hospital setting. Dr. Louck Davis acknowledged she used information from Dr. Eckhart's reports, which were also done for fitness, but indicated those reports contained more "descriptive information" from closer to the time of the killing.

¶ 34 In closing, the State argued defendant killed Hocker and was not insane at the time of the killing. The prosecutor initially noted, while he was not going to argue defendant did not have any mental illness, "I think he is somehow, you know, embellishing his—his—his mental defect." The prosecutor explained the jury would receive an instruction as to the verdict of guilty but mentally ill and indicated he believed "that fits here." In support, the State asserted the jury

should “consider *** more than anything else what you see for yourself.” The State emphasized defendant’s conduct around the time of the killing. Specifically, the State emphasized defendant (1) waited to commit the killing until after the guards had done their rounds and turned off the television in the pod, (2) raised his hands immediately after the killing, (3) smirked or smiled when removed from his cell, (4) stated he “had some trouble with a cellmate” during his interview shortly after the killing, (5) expressed his understanding of the questions posed to him during the interview, and (6) did not make any physical or verbal threats to others. As to the reported statement about demons, the State asserted the evidence indicated defendant did not make that statement until months after the killing, which was self-serving and did not warrant any weight. And, as to Dr. Louck Davis’s testimony, the State argued the jury did not have to credit her opinions. It emphasized she (1) did not observe defendant’s behavior around the time of the killing, (2) had no information about what occurred between March and October 2023, and (3) did not include information from Dr. Suneja’s report in her report. Concerning the latter, the State read the same information and opinion reported by Dr. Suneja that it read during its cross-examination of Dr. Louck Davis and then asserted:

“Now, why wouldn’t you include that in your report if you’re the psychiatrist? I mean, obviously, it goes against your—you know, your diagnosis that he was insane at the time. Why wouldn’t she include it in the report? She didn’t have a good answer for me. And put it in the report and then explain why that is wrong or why it doesn’t matter to her finding that the defendant didn’t know what he was doing on November 8th of 2023. I mean, you’d put that in there and say, but this doesn’t matter, but instead, she just didn’t even put it in there, didn’t even talk about it, but then when Dr. Eckert, another psychiatrist, who interviewed *** defendant,

says all these things that go along with her diagnosis, those are all in the report.”

The prosecutor remarked the way Dr. Louck Davis reached her opinions “just doesn’t wash with me.”

¶ 35 The defense, in response, argued defendant was insane at the time of the killing. Defense counsel asserted, “I want to be very clear, the evidence that was introduced, not I don’t agree with it and I’m trying to poke holes in it, that’s not evidence,” showed defendant was not guilty due to his insanity. The defense highlighted the observations of the Malones and Hoyle and the opinions of Dr. Louck Davis. Defense counsel asserted, while the prosecutor “doesn’t agree with [Dr. Louck Davis’s] findings,” “there was no evidence to the contrary.” The defense ultimately claimed defendant did not appreciate the criminality of his conduct at the time it was committed.

¶ 36 In rebuttal, the State argued the evidence of defendant’s behaviors and actions around the time of the killing showed he was not insane at the time of the killing, and Dr. Louck Davis’s opinion concerning defendant’s insanity should not be credited.

¶ 37 The jury conducted its deliberations and then returned a verdict finding defendant guilty but mentally ill of first degree murder. The trial court later entered judgment convicting defendant of first degree murder (720 ILCS 5/9-1(a)(1) (West 2022)) and sentencing him to 50 years in prison.

¶ 38 This appeal followed.

¶ 39 II. ANALYSIS

¶ 40 On appeal, defendant argues (1) the jury’s rejection of his insanity defense is against the manifest weight of the evidence and (2) the State’s closing argument unduly prejudiced him where the prosecutor repeatedly expressed his opinion on the ultimate jury question—whether

defendant was insane at the time of the killing—and relied on the report by Dr. Suneja as substantive evidence of defendant’s sanity. The State disagrees with defendant’s arguments.

¶ 41 A. Insanity Defense

¶ 42 Defendant argues the jury’s rejection of his insanity defense is against the manifest weight of the evidence. In support, defendant highlights the testimony of his increasingly disturbing symptoms prior to the killing and Dr. Louck Davis’s expert opinion he was insane at the time of the killing.

¶ 43 Section 6-2 of the Criminal Code of 2012 (720 ILCS 5/6-2 (West 2022)) sets forth the governing standards for a claim of insanity. Section 6-2 provides:

“(a) A person is not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity to appreciate the criminality of his conduct.

(b) The terms ‘mental disease or mental defect’ do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

(c) A person who, at the time of the commission of a criminal offense, was not insane but was suffering from a mental illness, is not relieved of criminal responsibility for his conduct and may be found guilty but mentally ill.

(d) For purposes of this Section, ‘mental illness’ or ‘mentally ill’ means a substantial disorder of thought, mood, or behavior which afflicted a person at the time of the commission of the offense and which impaired that person’s judgment, but not to the extent that he is unable to appreciate the wrongfulness of his behavior.

(e) When the defense of insanity has been presented during the trial, the burden of proof is on the defendant to prove by clear and convincing evidence that

the defendant is not guilty by reason of insanity. However, the burden of proof remains on the State to prove beyond a reasonable doubt each of the elements of each of the offenses charged, and, in a jury trial where the insanity defense has been presented, the jury must be instructed that it may not consider whether the defendant has met his burden of proving that he is not guilty by reason of insanity until and unless it has first determined that the State has proven the defendant guilty beyond a reasonable doubt of the offense with which he is charged.” *Id.*

¶ 44 Whether a defendant was insane at the time of an offense is generally a question for the trier of fact. *People v. Lagrone*, 2025 IL App (2d) 230543, ¶ 70. The trier of fact need not accept expert testimony on the issue where the credibility of the expert or the expert’s opinion has been challenged or where the other evidence refutes the claim of insanity, such as evidence of observations made shortly before or after the offense, the existence of a plan for the offense, or methods undertaken to prevent detection. *Id.* ¶ 71. Indeed, the State may rely on facts in evidence and the inferences from those facts to refute a claim of insanity. *Id.*

¶ 45 “A reviewing court will not disturb the trier of fact’s resolution on the issue of an insanity defense unless it is against the manifest weight of the evidence.” *People v. Plackowska*, 2020 IL App (2d) 171015, ¶ 48. “A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly evident or if the finding is unreasonable, arbitrary, or not based on the evidence presented.” *Id.*

¶ 46 In this case, we cannot say the jury’s rejection of defendant’s insanity defense is unreasonable, arbitrary, or not based on the evidence presented, or that the opposite conclusion is clearly evident. While the defense presented the testimony of defendant’s increasingly disturbing symptoms in the weeks and months prior to the killing and Dr. Louck Davis’s expert opinion he

was insane at the time of the killing, the State presented substantial evidence from the day of the killing to refute the claim of insanity and, furthermore, made a successful challenge to the credibility of Dr. Louck Davis and her insanity opinion.

¶ 47 First, the State presented testimony and audio and video evidence of defendant's actions and behavior on the day of the killing. As the State emphasized in its closing argument, the evidence showed defendant (1) waited to commit the killing until after the guards had done their rounds and turned off the television in the pod, (2) raised his hands immediately after the killing, (3) smirked or smiled when removed from his cell, (4) stated he "had some trouble with a cellmate" during his interview, (5) expressed his understanding of the questions posed to him during the interview, and (6) did not make any physical or verbal threats to others. From this evidence, we find, contrary to defendant's assertion, the jury could reasonably reject his claim of insanity.

¶ 48 Additionally, while the Dr. Louck Davis rendered an opinion defendant was insane at the time of the killing, the State challenged the credibility of Dr. Louck Davis and her insanity opinion. Again, as the State emphasized in its closing argument, the evidence showed Dr. Louck Davis (1) did not observe defendant's behavior around the time of the killing, (2) had no information about what occurred between March and October 2023, and (3) did not include in her report information from Dr. Suneja's report. From this evidence, we find, contrary to defendant's assertion, the jury could reasonably reject Dr. Louck Davis's opinion on insanity.

¶ 49 In sum, we conclude the jury's rejection of defendant's insanity defense was not against the manifest weight of the evidence.

¶ 50 B. State's Closing Argument

¶ 51 Defendant argues the State's closing argument unduly prejudiced him where the

prosecutor repeatedly expressed his opinion on the ultimate jury question—whether defendant was insane at the time of the killing—and relied on the report by Dr. Suneja as substantive evidence of defendant’s sanity. Defendant concedes his failure to raise these issues below results in their forfeiture but requests they be reviewed as a matter of first-prong plain error and ineffective assistance of counsel.

¶ 52 The plain-error doctrine provides a “narrow and limited exception” to the general rule of forfeiture. *People v. Reese*, 2017 IL 120011, ¶ 72. Under the first prong of the plain-error doctrine, a reviewing court considers whether there has been “a clear or obvious error” and, if so, whether “the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error.” (Internal quotation marks omitted.) *People v. Harvey*, 2018 IL 122325, ¶ 15. The defendant bears the burden of persuasion in establishing plain error. *People v. Wilmington*, 2013 IL 112938, ¶ 43.

¶ 53 Forfeited issues may also be reviewed as a matter of ineffective assistance of counsel. To prevail on a claim of ineffective assistance of counsel, the following must be shown: “[1)] that counsel’s performance was objectively unreasonable under prevailing professional norms and [(2)] that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” (Internal quotation marks omitted.) *People v. Moore*, 2020 IL 124538, ¶ 29. Like a claim of plain error, the defendant bears the burden of persuasion of establishing ineffective assistance. *People v. Simpson*, 2015 IL 116512, ¶ 35.

¶ 54 The issues raised by defendant concern the State’s closing argument. “Prosecutors are afforded wide latitude during closing argument and may properly comment on the evidence presented and reasonable inferences drawn from that evidence, respond to comments made by defense counsel that invite a response, and comment on the credibility of a witness.” *People v.*

Pope, 2020 IL App (4th) 180773, ¶ 80. Prosecutors may not argue “facts not contained in the record.” *People v. Glasper*, 234 Ill. 2d 173, 204 (2009). Prosecutors also may not “express personal opinions about the case.” *People v. Shief*, 312 Ill. App. 3d 673, 678 (2000). When reviewing a closing argument for alleged error, we consider the argument “in its entirety,” with the challenged remarks “in their context.” *Glasper*, 234 Ill. 2d at 204.

¶ 55 In this case, we find defendant has not established his claims of plain error and ineffective assistance of counsel related to the State’s closing argument. First, defendant argues the State’s closing argument was unduly prejudicial where the prosecutor rendered personal opinions by making various remarks such as “I think” or “I believe.” We disagree. Initially, we find defendant’s analysis is lacking, as error “cannot be presumed simply because the prosecutor begins a sentence with such language.” *People v. Bailey*, 249 Ill. App. 3d 79, 82 (1993). Moreover, we find, in reviewing the closing argument in its entirety, with the prosecutor’s remarks in their context, the prosecutor was conveying remarks based on the evidence presented and not his personal views. See *People v. Gilker*, 2023 IL App (4th) 220914, ¶ 130 (“ ‘[F]or a prosecutor’s closing argument to be improper, he must *explicitly* state that he is asserting his personal views, stating for example, “this is my personal view.” ’ ” (Emphasis in original.)). While we find no error, we repeat the better practice is to refrain from using such language. See, e.g., *People v. Pope*, 284 Ill. App. 3d 695, 706-07 (1996).

¶ 56 Second, defendant argues the State’s closing argument was unduly prejudicial where the prosecutor relied on the report by Dr. Suneja as substantive evidence of his sanity. We disagree. The prosecutor made clear he read the report of Dr. Suneja for the same reason he read the report during his cross-examination of Dr. Louck Davis—for impeachment purposes, not as substantive evidence. The prosecutor specifically challenged Dr. Louck Davis’s explanation for

not including the information from Dr. Suneja's report in her report, which we find was a proper subject of closing argument. In any event, Dr. Louck Davis's decision not to include information from Dr. Suneja's report in her report was one of only several grounds upon which the State challenged Dr. Louck Davis's opinion, and, as indicated, the State presented substantial evidence from the day of the killing to refute the claim of insanity. Any error in reading the report, therefore, was harmless, and we are not convinced defendant was prejudiced by his counsel's failure to object to it or request a limiting instruction concerning its use.

¶ 57 In sum, we conclude defendant had not established his claims of plain error and ineffective assistance of counsel with respect to the State’s closing argument.

58 III. CONCLUSION

¶ 59 For the reasons stated, we affirm the trial court’s judgment.

¶ 60 Affirmed.